

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY MITCHELL,

No. 2:20-cv-2132-JAM-EFB P

Plaintiff,

## ORDER

JAMES CORY,

## Defendant.

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On September 28, 2021, the court recommended that this action be dismissed after plaintiff failed to respond to defendant Cory's August 6, 2021 motion to dismiss. ECF No. 27. Plaintiff has filed objections, stating that he was transferred to a different prison on August 17, 2021 and has experienced delays in receiving his mail. ECF No. 28. Good cause appearing, the court will afford plaintiff a final opportunity to respond to defendant's motion.

Accordingly, it is ordered that:

1. The September 28, 2021 findings and recommendations (ECF No. 27) are VACATED.
  2. Within 30 days from the date of service of the date of this order, plaintiff shall file either an opposition to the motion to dismiss or a statement of no opposition. Failure to comply with this order may result in a recommendation that this action be dismissed without prejudice.

1           3. As a one-time courtesy, the Clerk of the Court shall send to plaintiff a copy of  
2           defendant's motion to dismiss (ECF No. 21).

3           Dated: October 18, 2021.

4             
5           EDMUND F. BRENNAN  
6           UNITED STATES MAGISTRATE JUDGE

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